IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE P.R.RAMAN

MONDAY, THE 8TH JANUARY 2007 / 18TH PAUSHA 1928

WP(C).No. 774 of 2007(P)

PETITIONER:

M/S.COCONUT LAGOON, A UNIT OF
M/S.HOTEL AND ALLIED TRADES PVT.LTD.,
CASINO HOTEL, WILLINGDON ISLAND,
COCHIN-682 003, REPRESENTED BY ITS
EXECUTIVE OFFICER, MR.MICHAEL DOMINIC.

BY ADV. SRI.JOSEPH MARKOSE
SRI.MITHUN MARKOS

RESPONDENTS:

1. THE COMMERCIAL TAX OFFICER (WORKS CONTRACT), COMMERCIAL TAXES, KOTTAYAM.

2. THE COMMISSIONER OF COMMERCIAL TAXES, TRIVANDRUM.

3. THE DEPUTY TAHSILDAR (RR), KOTTAYAM.

BY GOVT.PLEADER SRI SOJAN JAMES

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 08/01/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

P.R.RAMAN,J.

W.P.(C).NO.774 OF 2007

Dated this the 8th day of January, 2007

JUDGMENT

The challenge made in this writ petition is against the order, Ext.P4 passed by the Revisional Authority under the Luxury Tax Act. As per Ext.P4 order the petitioner was directed to pay 50% of the interest demanded for the years 1995-96 to 2002-03 as a condition for stay of balance amount. The contention of the petitioner is that the interest if at all levied is to be paid only from the assessment year and in this case assessments were completed in 2006 and as such interest if any will be payable only from that year onwards, whereas in the present case by separate orders interest is recovered from the petitioner from the date of which the

provision for interest was introduced in the Act. As such according to the petitioner, the order requiring the petitioner to pay 50% is in a mechanical way, illegal, arbitrary and violative of Article 14 of the Constitution and also not passed in accordance with law exercising the appellate powers.

2. Heard the learned Government Pleader also.

3. In the facts and circumstances, there will be a direction that in case the petitioner pays 25% of the interest demanded for the assessment years in question within a period of one month from today, further proceedings for recovery of the balance amount under Ext.P3 shall stand stayed until the revision is disposed of by the Commissioner of Commercial Taxes, Thiruvananthapuram. In case the petitioner fails to pay the amount as

directed above, the benefit of this order will stand automatically cancelled.

Writ Petition is disposed of with the above direction.

P.R.RAMAN,
Judge.

kcv.